

1 Marc Cook
2 Cook & Kelesis, LTD
3 517 South 9th Street
4 Las Vegas, NV 89101
5 Tel: (702) 385-3788
6 Fax: (702) 737-7712

7 [Additional counsel appearing on signature page]

8 *Attorneys for Plaintiffs*

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 MICHAEL JAFFEY, individually and on
12 behalf of a class of similarly situated
13 individuals,

14 Plaintiff,

15 v.

16 DEL TACO RESTAURANTS, INC., a
17 Delaware corporation,

18 Defendant.

Case No.

CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED

19 Plaintiff Michael Jaffey (“Plaintiff” or “Jaffey”) brings this class action complaint against
20 Defendant Del Taco Restaurants, Inc. (“Defendant” or “Del Taco”) to obtain redress for
21 Defendant’s serial and repeated violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et*
22 *seq.* (“FCRA” or “Act”), specifically its failure to provide lawful FCRA disclosures and adverse
23 action notices to its job applicants and employees. Plaintiff, for his Class Action Complaint,
24 alleges as follows upon personal knowledge as to himself and his own acts and experiences, and,
25 as to all other matters, upon information and belief, including investigation conducted by his
26 attorneys.

NATURE OF THE ACTION

1
2 1. Enacted to promote the accuracy, fairness, and privacy of consumer information
3 contained in the files of consumer reporting agencies, the FCRA explicitly acts to protect both
4 applicants for employment and existing employees from adverse employment actions taken as a
5 result of information contained in consumer reports and background checks. To that end,
6 employers who obtain and use consumer reports/background checks regarding their applicants
7 and employees are required to provide: (1) an express standalone disclosure seeking
8 authorization to obtain the report prior to obtaining it in the first place, and (2) copies of any
9 reports obtained and a summary of the applicant's/employee's rights under the Act *prior* to
10 taking any adverse employment action against them based on information contained in such
11 reports.

12 2. Here, Defendant willfully violates the FCRA by: (1) failing to provide a
13 standalone up-front disclosure and authorization that Defendant may procure consumer reports
14 about its applicants and employees, and (2) failing to provide its applicants and employees
15 copies of such reports and the required summaries of their FCRA rights before taking adverse
16 action against them.

17 3. First, Defendant fails to provide its applicants or employees with a standalone
18 notice that indicates Defendant may obtain a consumer report about them for employment
19 purposes. Section 1681b(b)(2) establishes that the notice must be made "in a document that
20 consists solely of the disclosure." Here, Defendant provides a disclosure replete with extraneous
21 information the inclusion of which renders the disclosure difficult to read and confusing to the
22 average consumer. Such extraneous information includes, without limitation, disclosures
23 necessary before an employee can obtain a special type of report, known as an investigative
24 consumer report, with the disclosures necessary solely for consumer reports, disclosures specific
25 to certain states inapplicable to Plaintiff and other extraneous and confusing information.
26
27

1 8. Defendant Del Taco Restaurants, Inc. is a Delaware corporation with its principle
2 place of business located at 25521 Commercentre Drive Lake Forest, California 92630.

3 **JURISDICTION AND VENUE**

4 9. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this
5 action arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, which is a federal
6 statute. Furthermore, jurisdiction is proper under the Class Action Fairness Act, 28 U.S.C. §
7 1332(d), *et seq.* because the classes each consist of over 100 people, at least one member of each
8 class is from a State other than California and Delaware (the states of Defendant), and the
9 amounts in controversy are over \$5,000,000. Further, none of the exceptions to CAFA
10 jurisdiction apply.

11 10. This Court has personal jurisdiction over Defendant because it conducts ongoing
12 and continuous business in this District and the unlawful conduct alleged in the Complaint was
13 directed at individuals within this District.

14 11. Venue is proper in this District under 28 U.S.C. § 1391 because Plaintiff's claims
15 arose in substantial part out of corporate actions and policies that occurred within this District
16 and which have emanated from this District.

17 **FACTS COMMON TO PLAINTIFF AND ALL COUNTS**

18 12. Del Taco is a publically-traded restaurant chain based in Lake Forest, California.

19 13. Del Taco was founded in 1964 and now operates or franchisees more than 550
20 restaurants in fifteen states.

21 14. Del Taco has over 7,000 employees.

22 15. In or around June 2017, Plaintiff Jaffey applied for a job with Del Taco using its
23 online application process.

1 16. Shortly after applying, Plaintiff was hired by Del Taco as a team member.
2 Plaintiff's primary Del Taco workplace was located at 2531 East Craig Road, North Las Vegas,
3 NV 89030. However, during Plaintiff's time of employment with Del Taco, he was asked to
4 work at various locations within the Las Vegas and North Las Vegas areas.

5 17. Jaffey worked at Del Taco for approximately one month.

6 18. During Jaffey's employment at Del Taco, his supervisor informed him that he
7 would be trained for a management position at one of the company's locations.

8 19. After one month of employment with Del Taco, Jaffey was informed by his
9 supervisor that Del Taco had procured a background check about Jaffey, that he, Jaffey, had
10 failed, and that he, Jaffey, was fired.

11 20. At no time prior to Jaffey's termination did he receive any pre-adverse action
12 notice or a copy of his consumer report.

13 21. In fact, Jaffey didn't receive a copy of his background check until three months
14 after his termination and only because he called to request a copy.

15 22. Put simply, Del Taco skipped the pre-adverse action process entirely and failed to
16 send Jaffey a copy of his consumer report and a summary of his FCRA rights prior to taking
17 adverse action against him.

18 23. As the FTC has made clear, applicants and employees are to be afforded the
19 opportunity to review any background check/consumer report procured about them and to
20 discuss it with their prospective employer before losing out on a job (or having other adverse
21 action taken against them) because of information contained in the report. The FTC has ruled
22 that in general an employer should wait at least five (5) business days following the notice to the
23 applicant or employee of the anticipated adverse action—together with a copy of the report and a
24 summary of the applicant/employees' FCRA rights—before actually taking the adverse action.
25 This notice advises the applicant or employee of their ability to discuss the report with their
26
27

1 employer. (*See, e.g.*, FTC Advisory Opinion to Weisberg, available at
2 <http://www.ftc.gov/policy/advisory-opinions/advisory-opinion-weisberg-06-27-97>.)

3 24. Further, Plaintiff was presented with an FCRA disclosure and authorization form
4 during the hiring process that was combined with extraneous information. This extraneous
5 information rendered the disclosure confusing to the average individual and was indeed
6 confusing to the Plaintiff himself.

7 25. Because of the unlawful disclosure provided to applicants and employees
8 including Plaintiff, as well as Defendant's policy of skipping the pre-adverse action notice step
9 entirely, Defendant has willfully denied Plaintiff and others the rights guaranteed to them by the
10 FCRA. Such violations entitle him, and others similarly situated, to statutory damages of not less
11 than \$100 and not more than \$1,000.

12 CLASS ACTION ALLEGATIONS

13 26. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure Rule
14 23(b)(3) on behalf of himself and three Classes defined as follows:

15 **Unlawful Disclosure Class:** All persons in the United States (1) who applied for
16 employment with Defendant on or after September 29, 2015, (2) about whom
17 Defendant procured a consumer report, and (3) who were provided the same
disclosure and authorization regarding the possibility that a consumer report may
be procured about them as the disclosure Del Taco provided to Plaintiff.

18 **Non-California Sub-Class:** All Unlawful Disclosure Class Members located
19 outside of California who (1) applied for employment at a Del Taco restaurant
20 located outside California on or after September 29, 2015, (2) about whom
21 Defendant procured a consumer report, and (3) who were provided the same
disclosure and authorization, which included the authorization in accordance
with California State Law, that Del Taco provided to Plaintiff.

22 **Pre-Adverse Action Class:** All persons in the United States who (1) were
23 subject to adverse employment action on or after September 29, 2015 based in
24 whole or in part on any consumer report procured by Defendant; and (2) who,
like Plaintiff, did not receive a copy of the report Defendant procured and a
summary of rights before Defendant took adverse action against them.

25 Excluded from the Classes are (1) Defendant, Defendant's agents, subsidiaries, parents,
26 successors, predecessors, and any entity in which Defendant or its parents have a controlling
27 interest, and those entities' current and former officers and directors, (2) the Judge or Magistrate

1 Judge to whom this case is assigned and the Judge's or Magistrate Judge's immediate family, (3)
2 persons who execute and file a timely request for exclusion, (4) persons who have had their
3 claims in this matter finally adjudicated and/or otherwise released, and (5) the legal
4 representatives, successors, and assigns of any such excluded person.

5 27. **Numerosity:** The exact number of the members of the Classes is unknown to
6 Plaintiff at this time, but it is clear that individual joinder is impracticable. Defendant has
7 thousands of employees and a potentially even greater number of job applicants. Further, the
8 Class members can readily be ascertained through Defendant's records.

9 28. **Commonality:** Common questions of law and fact exist as to all members of the
10 Classes for which this proceeding will provide common answers in a single stroke based upon
11 common evidence, including:

- 12 (a) Whether Defendant's conduct described herein violated the FCRA;
- 13 (b) Whether Defendant has procured or caused to be procured consumer reports
14 regarding its job applicants and employees;
- 15 (c) Whether Defendant's disclosure violates the FCRA's requirement that the pre-
16 report disclosure "stand alone";
- 17 (d) Whether Defendant has acted willfully;
- 18 (e) Whether Defendant has failed to provide a pre-adverse action notice, copy of the
19 consumer report, and a summary of FCRA rights to applicants and employees prior to
20 taking adverse action and, if so, whether such policies and procedures violate the FCRA;
21 and
- 22 (f) The proper measure of statutory damages.

23 29. **Typicality:** As a result of Defendant's uniform disclosures and conduct, Plaintiff
24 and the Class members suffered the same injury and similar damages. Thus, Plaintiff's claims are
25 typical of the claims of the other Class members.

1 30. **Adequate Representation:** Plaintiff is a member of the Classes and both he and
2 his counsel will fairly and adequately represent and protect the interests of the Classes. Neither
3 Plaintiff nor his counsel has interests adverse to those of the Class members, and Defendant has
4 no defenses unique to Plaintiff. In addition, Plaintiff has retained counsel competent and
5 experienced in complex litigation and class actions. Further, Plaintiff and his counsel are
6 committed to vigorously prosecuting this action on behalf of the members of the Classes, and
7 they have the financial resources to do so.

8 31. **Predominance:** The common questions of law and fact set forth above go to the
9 very heart of the controversy and predominate over any supposed individualized questions.
10 Irrespective of any given Class member’s situation, the answer to whether Defendant’s pre-
11 report disclosure and failure to provide pre-adverse action notices are unlawful is the same for
12 everyone—resounding “yesses” on both questions—and they will be proven using common
13 evidence.

14 32. **Superiority and Manageability:** A class action is superior to all other methods
15 of adjudicating the controversy. Joinder of all class members is impractical, and the damages
16 suffered by/available to the individual Class members will likely be small relative to the cost
17 associated with prosecuting an action. Thus, the expense of litigating an individual action will
18 likely prohibit the Class members from obtaining effective relief for Defendant’s misconduct. In
19 addition, there are numerous common factual and legal questions that could result in inconsistent
20 verdicts should there be several successive trials. In contrast, a class action will present far fewer
21 management difficulties, as it will increase efficiency and decrease expense. Further, class-wide
22 adjudication will also ensure a uniform decision for the Class members.

23 33. Plaintiff reserves the right to revise the definition of the Classes as necessary
24 based upon information obtained in discovery.

COUNT I

**Violation of 15 U.S.C. § 1681b(b)(2)(A)(i)
(On Behalf of Plaintiff and the Disclosure Class)**

1
2
3 34. Plaintiff incorporates by reference the foregoing allegations as if fully set forth
4 herein.

5 35. The FCRA declares that:

6 Except as provided in subparagraph (B), a person may not procure a consumer
7 report, or cause a consumer report to be procured, for employment purposes with
8 respect to any consumer, unless—

9 (i) a clear and conspicuous disclosure has been made in writing to the consumer
10 at any time before the report is procured or caused to be procured, in a document
11 that consists solely of the disclosure, that a consumer report may be obtained for
12 employment purposes

13 15 U.S.C. § 1681b(b)(2)(A) (emphasis added).

14 36. The FCRA defines a consumer report as:

15 . . . any written, oral, or other communication of any information by a consumer
16 reporting agency bearing on a consumers' credit worthiness, credit standing,
17 credit capacity, character, general reputation, personal characteristics, or mode of
18 living which is used or excepted to be used or collected in whole or in part for the
19 purpose of serving as a factor establishing the consumer's eligibility for . . .

20 (B) employment purposes

21 15 U.S.C. § 1681a(d)(1). Defendant's background checks are consumer reports.

22 37. The pre-report disclosure that Defendant provided to Plaintiff and the putative
23 Unlawful Disclosure Class members as part of the application process willfully violated the
24 FCRA by not standing alone and by including extraneous information.

25 38. Such extraneous information rendered the disclosure confusing to the average
26 consumer.

27 39. Plaintiff completed his application online and therefore never possessed a paper
28 copy of the disclosure.

1 40. Defendant procured consumer reports with respect to Plaintiff and the Unlawful
2 Disclosure Class members. The disclosure provided to Plaintiff was the same or substantially the
3 same as the one provided to all Disclosure Class members. Thus, Defendant uniformly violated
4 the rights of all Class members in the same way by including extraneous information in the
5 disclosure.

6 41. Defendant’s violation of 15 U.S.C. § 1681b(b)(2)(A)(i) was willful for at least the
7 following reasons:

8 (i) The rule that FRCA disclosures be “clear and conspicuous” and part of a
9 document consisting “solely” of that disclosure has been the law established for well over a
10 decade.

11 (ii) Defendant is a large corporation who regularly engages outside counsel—
12 it had ample means and opportunity to seek legal advice regarding its FCRA responsibilities. As
13 such, any violations were made in conscious disregard of the rights of others.

14 (iii) Clear judicial and administrative guidance—dating back to at least the
15 1990s—regarding a corporation’s FCRA responsibilities exists and is readily available
16 explaining that such disclosures must stand-alone. This readily-available guidance means
17 Defendant either was aware of its responsibilities or plainly should have been aware of its
18 responsibilities but ignored them and violated the FCRA anyway.

19 42. Plaintiff and the Disclosure Class are entitled to statutory damages of not less than
20 \$100 and not more than \$1,000 for each of Defendant’s willful violations pursuant to 15 U.S.C. §
21 1681n(a)(1)(A).

22 43. Accordingly, under the FCRA, Plaintiff and the Disclosure Class seek statutory
23 damages, costs and reasonable attorneys’ fees.

COUNT II
Violation of 15 U.S.C. § 1681b(b)(2)
(On Behalf of Plaintiff and the Non-California Sub-Class)

1
2
3 44. Plaintiff incorporates by reference the foregoing allegations as if fully set forth
4 herein.

5 45. The FCRA declares that:

6 Except as provided in subparagraph (B), a person may not procure a consumer
7 report, or cause a consumer report to be procured, for employment purposes with
8 respect to any consumer, unless—

9 (i) a clear and conspicuous disclosure has been made in writing to the consumer
10 at any time before the report is procured or caused to be procured, in a document
11 that consists solely of the disclosure, that a consumer report may be obtained for
12 employment purposes

13 (ii) the consumer has authorized in writing (which authorization may be on the
14 document referred to in clause (i)) the procurement of the report by that person.

15 15 U.S.C. § 1681b(b)(2)(A) (emphasis added).

16 46. Defendant violated Section 1681b(b)(2)(A) of the FCRA by failing to provide
17 applicants and employees with a stand-alone disclosure. Instead, rather than simply provide
18 applicants and employees with a standalone consumer report disclosure and authorization, Del
19 Taco unlawfully includes California State Law Disclosures.

20 47. The inclusion of California State Law Disclosures, in addition to other extraneous
21 information, makes the disclosure not standalone and further creates confusion to the average
22 individual.

23 48. Moreover, regardless of what state applicants and employees work in, they are
24 required to authorize all aforementioned disclosures in one single document. This is particularly
25 confusing to applicants and employees who work outside of California yet for some reason are
26 forced to agree to California state laws.
27

1 49. Thus, Defendant routinely and uniformly violated the rights of all Class members
2 in the same way by requiring each to review the California State Law Disclosures and agree to
3 the disclosures, which have zero applicability to the entire class. This is plainly a violation of
4 Section 15 U.S.C. § 1681b(b)(2)(A).

5 50. Defendant's violations of 15 U.S.C. § 1681b(b)(2)(A) were willful. The rule that
6 disclosures be "clear and conspicuous" and part of a document consisting "solely" of that
7 disclosure has been the law established for well over a decade. Furthermore, Del Taco is a large
8 corporation that regularly engages outside counsel. As such, it had ample opportunity to seek
9 legal advice regarding its FCRA responsibilities.

10 51. Plaintiff and the Non-California Sub-Class are entitled to statutory damages of not
11 less than \$100 and not more than \$1,000 for each of Defendant's willful violations pursuant to
12 15 U.S.C. § 1681n(a)(1)(A).

13 52. Accordingly, under the FCRA, Plaintiff and the Non-California Sub-Class seek
14 statutory damages, reasonable cost and attorneys' fees, an injunction against further violations,
15 and a declaration that Defendant's conduct is unlawful.

16 **COUNT III**
17 **Violation of 15 U.S.C. § 1681b(b)(3)**
18 **(On Behalf of Plaintiff and the Pre-Adverse Action Class)**

19 53. Plaintiff incorporates by reference the foregoing allegations as if fully set forth
20 herein.

21 54. The FCRA provides that:

22 (3) Conditions on use for adverse actions.

23 (A) In General. Except as provided in subparagraph (b), in using a consumer report for
24 employment purposes, *before* taking any adverse action based in whole or in part on the
25 report, the person intending to take such adverse action shall provide to the consumer to
26 whom the report relates—

- 27 (i) a copy of the report; and
28 (ii) a description in writing of the rights of the consumer under this subchapter, as
prescribed by the Bureau under section 1681g(c)(3) of this title.

1 *See* 15 U.S.C. 1681b(b)(3) (Emphasis added).

2 55. The FCRA defines adverse action as “a denial of employment or any other
3 decision for employment purposes that adversely affects any current or prospective employee.”

4 15 U.S.C. § 1681a(k)(1)(B)(ii).

5 56. Defendant violated Section 1681b(b)(3)(A) of the FCRA by failing to provide
6 Plaintiff and members of the Pre-Adverse Action Class with a copy of their consumer reports
7 and/or summaries of their rights under the FCRA before taking adverse employment action
8 against them. Instead, Defendant fails to send such reports and summaries at all. Indeed, Jaffey
9 would have never received a copy of his consumer report had he not requested it. Even then it
10 wasn’t provided until a month after he was terminated.

11 57. Defendant obtained a consumer report about Plaintiff for employment purposes.
12 Based in whole or in part on information contained within Plaintiff’s consumer report, Defendant
13 terminated Plaintiff—an adverse employment action.

14 58. In contravention of the FCRA, Defendant willfully failed to provide Plaintiff with
15 his consumer report and a written description of his rights before taking such adverse action. In
16 doing so, Defendant failed to provide an opportunity to dispute or discuss any information prior
17 to the decision to fire him.

18 59. Defendant’s violations of 15 U.S.C. § 1681b(b)(3)(A) were willful. The rule that a
19 copy of the report relied upon and a summary of FCRA rights must be sent to a person against
20 whom an employer intends to take adverse action before such adverse action is taken is well
21 established. Defendant is a large publically traded corporation that has retained lawyers on staff
22 and regularly engages counsel—it has ample means and opportunity to seek legal advice
23 regarding its FCRA responsibilities. Further, there is a glut of judicial and administrative
24 guidance—dating back to the 1990’s—regarding a corporation’s FCRA responsibilities. As a
25 consequence of such readily available guidance, Defendant either was aware of its
26 responsibilities or should have been aware of its responsibilities but violated the FCRA anyway.

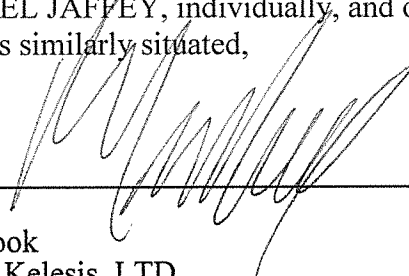
- 1 G. Awarding Plaintiff and the Classes pre- and post- judgment interest, to the extent
2 allowable;
- 3 H. Providing such other injunctive and/or declaratory relief as necessary to protect
4 the interests of Plaintiff and the Classes; and
- 5 I. Such further and other relief as the Court deems reasonable and just.

6 **JURY DEMAND**

7 Plaintiff requests a trial by jury of all claims that can be so tried.

8 Dated: October 3, 2017

MICHAEL JAFFEY, individually, and on behalf of
9 all others similarly situated,

10
11 By:  _____

12 Marc Cook
13 Cook & Kelesis, LTD
14 517 South 9th Street
15 Las Vegas, NV 89101
16 Tel: (702) 385-3788
17 Fax: (702) 737-7712

18 Steven L. Woodrow
19 swoodrow@woodrowpeluso.com*
20 Patrick H. Peluso
21 ppeluso@woodrowpeluso.com*
22 Woodrow & Peluso, LLC
23 3900 East Mexico Ave., Suite 300
24 Denver, Colorado 80210

25 *Counsel for Plaintiff and the Putative Class*

26 **pro hac vice admission to be filed*

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Michael Jaffey

(b) County of Residence of First Listed Plaintiff Clark County (NV)
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bailus Cook & Kelesis, LTD
400 S. 4th St., Suite 300, Las Vegas, NV 89101; Tel: (702) 385-3788

DEFENDANTS

Del Taco Restaurants, Inc., a Delaware corporation,

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 1681, et seq.

Brief description of cause:
Violation of the Fair Credit Reporting Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 10/04/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Marc Cook

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

for the

District of Nevada

Michael Jaffey

Plaintiff(s)

v.

Del Taco Restaurants, Inc., a Delaware corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Del Taco Restaurants, Inc.
Reg. Agent:
Registered Agent Solutions, Inc.
9 E. Loockerman Street, Suite 311
Dover, DE 19901

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Marc Cook
Bailus Cook & Kelesis, LTD
400 S. 4th St., Suite 300
Las Vegas, NV 89101
Tel: 702-385-3788

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

1 Marc Cook
2 Cook & Kelesis, LTD
3 517 S. 9th Street
4 Las Vegas, NV 89101
5 Tel: (702) 385-3788
6 Fax: (702) 737-7712

7 [Additional counsel appearing on signature page]

8 *Attorneys for Plaintiffs*

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 MICHAEL JAFFEY, individually and on
12 behalf of a class of similarly situated
13 individuals,

14 Plaintiff,

15 v.

16 DEL TACO RESTAURANTS, INC., a
17 Delaware corporation,

18 Defendant.

Case No.

**CERTIFICATE OF INTERESTED
PERSONS**

19 In accordance with Rule 7.1(a) of the Federal Rules of Civil Procedure, Plaintiff Michael
20 Jaffey certifies that he is a natural person. Thus, the disclosure requirements under the Rule are
21 not applicable.

22 Moreover, pursuant to Civil L.R. 7.1-1, the undersigned, counsel of record for Plaintiff
23 Michael Jaffey, certifies that the following have an interest in the outcome of this case:

24 Bailus Cook & Kelesis, Ltd. (counsel for Plaintiff and the Class)

25 Woodrow & Peluso, LLC (counsel for Plaintiff and the Class).

26 These representations are made to enable judges of the Court to evaluate possible
27 disqualifications or recusal.

28 Dated: October 5, 2017

Respectfully submitted,

MICHAEL JAFFEY, individually and on behalf of
all others similarly situated,

1 By: /s/ Marc Cook

2 Marc Cook
3 Cook & Kelesis, LTD
4 517 S. 9th Street
5 Las Vegas, NV 89101
6 Tel: (702) 385-3788
7 Fax: (702) 737-7712

8 Steven L. Woodrow
9 swoodrow@woodrowpeluso.com*
10 Patrick H. Peluso
11 ppeluso@woodrowpeluso.com*
12 Woodrow & Peluso, LLC
13 3900 East Mexico Ave., Suite 300
14 Denver, Colorado 80210

15 *Counsel for Plaintiff and the Putative Class*

16 *pro hac vice admission to be filed
17
18
19
20
21
22
23
24
25
26
27
28

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Del Taco Restaurants Sued Over Potentially Illegal Employee Background Reports](#)
